

	:
Lisa England,	: Civil Action No.: _____
	:
Plaintiff,	:
	:
v.	:
	:
Tate & Kirlin Associates;	: COMPLAINT
	: JURY TRIAL DEMANDED
Defendant.	:
	:
	:

JURISDICTION

2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

PARTIES

4. The Plaintiff, Lisa England (herein, “Plaintiff”), is an adult individual residing in Rockingham, NC.

5. Defendant Tate & Kirlin Associates (herein, “Tate”), is a PA business entity with an address of 2810 Southampton Road Philadelphia PA 19154, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

6. Tate at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

7. The Plaintiff’s daughter incurred a financial obligation in the approximate amount of three thousand dollars, (herein, the “Debt”) to GMAC (herein, the “Creditor”).

8. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

9. The Debt was purchased, assigned or transferred to Tate for collection, or Tate was employed by the Creditor to collect the Debt.

10. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. Tate Engages in Harassment and Abusive Tactics

11. Tate has consistently and repeatedly called the Plaintiff in an effort to contact her daughter.

12. Plaintiff explained to Tate that her daughter does not reside at the residence.

13. Despite knowing that Plaintiff's daughter is not a resident of the home, Tate continues to call Plaintiff looking for her daughter.

14. Tate called the Plaintiff prior to 8:00 a.m. on one occasion.

15. Tate called the Plaintiff more than four times in one day on several occasions.

16. Tate calls the Plaintiff on Saturdays, Sundays and holidays.

17. Tate has continued this pattern of behavior for over one month.

C. Plaintiff Suffered Actual Damages

18. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

19. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from anger, anxiety, emotional distress, fear, and frustration.

COUNT I
VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.

20. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

21. The Defendants' conduct violated 15 U.S.C. § 1692c(a)(1) in that Defendants contacted the Plaintiff before 8:00 a.m. and after 9:00 p.m.

22. The Defendants' conduct violated 15 U.S.C. § 1692d(5) in that Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass.

23. The foregoing acts and omissions of the Defendants constitute a violation of the FDCPA.

24. The Plaintiff is entitled to damages as a result of Defendants' violations.

COUNT II
VIOLATION OF THE NORTH CAROLINA DEBT COLLECTION ACT
N.C. Gen.Stat. § 75-50, et seq.

25. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

26. The Defendants' conduct violated N.C. Gen.Stat. § 75-52(3) in that Defendants caused a telephone to ring or engaged the Plaintiff in telephone conversation with such frequency as to be unreasonable or to constitute a harassment to the person under the circumstances or at times known to be times other than normal waking hours of the person.

COUNT III
VIOLATION OF THE NORTH CAROLINA UNFAIR TRADE PRACTICES ACT,
N.C. Gen.Stat. § 75-1.1, et seq.

27. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

28. The Defendants' unfair or deceptive acts to collect the Debt occurred in commerce, in violation of N.C. Gen.Stat. § 75-1.1.

29. The Plaintiff suffered mental anguish, and other damages in an amount to be proven at trial.

30. Defendant's failure to comply with these provisions constitutes an unfair or deceptive act under N.C. Gen.Stat. § 75-1.1 and, as such, the Plaintiff is entitled to damages plus reasonable attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendants:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against Defendants;
2. Statutory damages of \$1,000.00 for each violation pursuant to 15 U.S.C. § 1692k(a)(2)(A) against Defendants;
3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendants;
4. Double or treble damages plus reasonable attorney's fees pursuant to N.C.G.S. § 75.16.1; and
5. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: January 27, 2011

Respectfully submitted,

By /s/ Stacie Watson

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